

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

RODNEY MUCKLEROY, #897362, §
§
Plaintiff, §
§
v. § Case No. 6:21-cv-356-JDK-KNM
§
UNKNOWN UPSURE, et al., §
§
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Rodney Muckleroy, an inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On December 8, 2021, Judge Mitchell issued a Report recommending that Plaintiff's civil rights lawsuit be dismissed for failure to prosecute because Plaintiff had failed to comply with the Court's order to file a second amended complaint. Docket No. 12. A copy of this Report was mailed to Plaintiff and returned as undeliverable. Docket No. 13. Plaintiff has not filed written objections to the Report or taken any other action since that time to prosecute his case.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 12) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice for failure to prosecute. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **31st** day of **January, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE